

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	<u>ORDER</u>
	:	
	:	21-cr-371 (BMC)
- against -	:	
	:	
AL MALIK ALSHAHHI, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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COGAN, District Judge.

This case is before the Court regarding certain issues related to the empanelment of a trial jury.

I. Additional Strikes for Cause

At the August 29, 2022 status conference earlier this week, the Court granted the parties' mutual request to strike for cause all prospective jurors agreed upon by both parties. However, the Court reserved on the issue of whether any additional prospective jurors would be struck for cause based on the request of only one party.

Defendants contend that an additional 41 jurors should be struck for cause, based solely on their written questionnaire responses which suggest either: (1) an inability to sufficiently comprehend English; (2) a disqualifying level of bias towards former President Trump or individuals associated with him; (3) an inability to accept fundamental principles of law such as the presumption of innocence; or (4) significant hardship. The Government objects to defendants' request, arguing that these prospective jurors should return for in-person *voir dire*, so that the Court might make determinations after further questioning and observation.

I agree with defendants that there is no reason to extend an already lengthy *voir dire* process. Therefore, it is appropriate to strike any jurors whose bias is “so evident from the[] written responses as to render superfluous further oral inquiry about the juror’s ability to follow legal instructions and to serve impartially.” United States v. Quinones, 511 F.3d 289, 302 (2d Cir. 2007). But where a prospective juror evidenced, for example, merely some dislike of former President Donald Trump, and otherwise indicated that he could be fair and impartial, striking for cause is not appropriate, particularly at this stage. Accordingly, I will grant defendants’ request to strike for cause only prospective jurors 77, 126, 137, 176, 243, 263, 329, 364, and 383. The other 32 prospective jurors that defendants propose be struck will be called back for further questioning.

Although the Court is only striking for cause 9 additional jurors, it still agrees with the Government’s suggestion that it is prudent to call in an additional 50 to 75 potential jurors for oral *voir dire* since so many prospective jurors were mutually struck by the parties.

II. Supplemental *Voir Dire* Questions

Defendants have also included a proposed list of supplemental *voir dire* questions that they request be asked. The Government objects to four of them – questions 5, 6, 8 and 9 – arguing that they are poorly worded, fail to inquire about fairness and impartiality, or are duplicative of already agreed-upon questions from the questionnaire. The Court agrees, but will endeavor to ask defendants’ other questions, which are a part of its usual practice, in the manner it deems the most appropriate.

SO ORDERED.

Digitally signed by Brian
M. Cogan

U.S.D.J.

Dated: Brooklyn, New York
August 31, 2022